

House File 390 - Introduced

HOUSE FILE 390

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(COMPANION TO SF 79 BY BOLKCOM)

A BILL FOR

1 An Act relating to sexual assault policies adopted by state and
2 accredited private postsecondary institutions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 260C.14, subsection 18, Code 2015, is
2 amended to read as follows:

3 18. Develop and implement a written policy, ~~which is~~
4 concerning sexual assault as defined in section 915.40, and
5 domestic violence, dating violence, and stalking as defined in
6 the federal Higher Education Act of 1965, 20 U.S.C. §1092(f),
7 involving a student, both on and off campus. The policy shall
8 be disseminated during student registration or orientation,
9 addressing and shall do all of the following four areas
10 relating to sexual abuse:

11 a. Include an affirmative consent standard in the
12 determination of whether consent was given by both parties to
13 sexual activity. For purposes of this subsection, "affirmative
14 consent" means affirmative, conscious, and voluntary agreement
15 to engage in sexual activity. Under such standard, each
16 person engaged in the sexual activity is responsible for
17 ensuring that the person has the affirmative consent of any
18 other person engaging in the sexual activity. Lack of protest
19 or resistance does not mean consent. Silence does not mean
20 consent. Affirmative consent must be ongoing throughout a
21 sexual activity and can be revoked at any time. The existence
22 of a dating relationship between the persons involved, or the
23 fact of past sexual relations between them, shall not by itself
24 be assumed to be an indicator of consent.

25 b. Address the following four affected areas:

26 (1) Counseling.

27 ~~b.~~ (2) Campus security.

28 ~~c.~~ (3) Education, including prevention, protection, and the
29 rights and duties of students and employees of the community
30 college.

31 ~~d.~~ (4) Facilitating the The accurate and prompt reporting
32 of sexual assault including sexual abuse, domestic violence,
33 dating violence, and stalking to the duly constituted law
34 enforcement authorities.

35 Sec. 2. Section 261.9, subsection 1, paragraph f, Code 2015,

1 is amended to read as follows:

2 *f.* Develops and implements a written policy, ~~which is~~
3 concerning sexual assault as defined in section 915.40, and
4 domestic violence, dating violence, and stalking as defined in
5 the federal Higher Education Act of 1965, 20 U.S.C. §1092(f),
6 involving a student, both on and off campus. The policy shall
7 be disseminated during student registration or orientation,
8 addressing and shall do all of the following four areas
9 relating to sexual abuse:

10 (1) Include an affirmative consent standard in the
11 determination of whether consent was given by both parties to
12 sexual activity. For purposes of this subsection, "affirmative
13 consent" means affirmative, conscious, and voluntary agreement
14 to engage in sexual activity. Under such standard, each
15 person engaged in the sexual activity is responsible for
16 ensuring that the person has the affirmative consent of any
17 other person engaging in the sexual activity. Lack of protest
18 or resistance does not mean consent. Silence does not mean
19 consent. Affirmative consent must be ongoing throughout a
20 sexual activity and can be revoked at any time. The existence
21 of a dating relationship between the persons involved, or the
22 fact of past sexual relations between them, shall not by itself
23 be assumed to be an indicator of consent.

24 (2) Address the following four affected areas:

25 (a) Counseling.

26 ~~(2)~~ (b) Campus security.

27 ~~(3)~~ (c) Education, including prevention, protection,
28 and the rights and duties of students and employees of the
29 institution.

30 ~~(4)~~ (d) Facilitating the ~~The~~ accurate and prompt reporting
31 of sexual assault including sexual abuse, domestic violence,
32 dating violence, and stalking to the duly constituted law
33 enforcement authorities.

34 Sec. 3. Section 262.9, subsection 28, Code 2015, is amended
35 to read as follows:

1 28. Develop and implement a written policy, ~~which is~~
2 concerning sexual assault as defined in section 915.40, and
3 domestic violence, dating violence, and stalking as defined in
4 the federal Higher Education Act of 1965, 20 U.S.C. §1092(f),
5 involving a student, both on and off campus. The policy shall
6 be disseminated during registration or orientation, addressing
7 and shall do all of the following four areas relating to sexual
8 abuse:

9 a. Include an affirmative consent standard in the
10 determination of whether consent was given by both parties to
11 sexual activity. For purposes of this subsection, "affirmative
12 consent" means affirmative, conscious, and voluntary agreement
13 to engage in sexual activity. Under such standard, each
14 person engaged in the sexual activity is responsible for
15 ensuring that the person has the affirmative consent of any
16 other person engaging in the sexual activity. Lack of protest
17 or resistance does not mean consent. Silence does not mean
18 consent. Affirmative consent must be ongoing throughout a
19 sexual activity and can be revoked at any time. The existence
20 of a dating relationship between the persons involved, or the
21 fact of past sexual relations between them, shall not by itself
22 be assumed to be an indicator of consent.

23 b. Address the following four affected areas:

24 (1) Counseling.

25 ~~b.~~ (2) Campus security.

26 ~~c.~~ (3) Education, including prevention, protection, and the
27 rights and duties of students and employees of the institution.

28 ~~d.~~ (4) Facilitating the The accurate and prompt reporting
29 of sexual assault including sexual abuse, domestic violence,
30 dating violence, and stalking to the duly constituted law
31 enforcement authorities.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill modifies the current requirement that all

1 community colleges, regents universities, and accredited
2 postsecondary private institutions develop, implement, and
3 disseminate a written sexual assault policy. The bill provides
4 that the policy developed, implemented, and disseminated
5 concerns sexual assault including sexual abuse, domestic
6 violence, dating violence, and stalking involving a student,
7 both on and off campus.

8 The policy shall include an affirmative consent standard in
9 the determination of whether consent was given by parties to
10 the sexual activity. The bill defines "affirmative consent" to
11 mean affirmative, conscious, and voluntary agreement to engage
12 in sexual activity. Under that standard, each person involved
13 in the sexual activity is responsible for ensuring that the
14 person has the affirmative consent of any other person engaging
15 in the sexual activity. Lack of protest or resistance does
16 not mean consent. Silence does not mean consent. Affirmative
17 consent must be ongoing throughout a sexual activity and can be
18 revoked at any time. The existence of a dating relationship
19 between the persons involved, or the fact of past sexual
20 relations between them, shall not by itself be assumed to be
21 an indicator of consent.

22 The policy must also address the accurate and prompt
23 reporting of sexual assault including sexual abuse, domestic
24 violence, dating violence, and stalking to the duly constituted
25 law enforcement authorities.